

**PETITION TO REVIVE UNDER 37 CFR 1.1.37(B)**

Applicant respectfully petitions the Commissioner to revive the application identified as:

In re Application of:	)	
	)	
ROBERT A. LUCIANO et al.	)	
	)	Group Art Unit: 3713
Ser. No.: 09/742,679	)	
	)	
Filed: December 20, 2000	)	Examiner: CHERUBIN, Y.
	)	
For: APPARATUS AND	)	
METHOD FOR MAINTAINING GAME	)	
STATE	)	

**RECEIVED**

**MAR 06 2003**

**OFFICE OF PETITIONS**

The application went abandoned after a response to an Office Action was not received in the statutory time period (failure to reply). The failure to reply was unintentional, as outlined in more detail below.

Applicant has had the following correspondence with the USPTO (as well as original filing papers and assignment paperwork), in the following order, for application 09/742,679.

Applicant received a first office action dated 09/19/2001.

Applicant sent a response and amendment to the first office action on 03/19/2002, including a confirmation postcard.

Applicant received the confirmation postcard sent with the office action response on

04/01/2002, stamped and dated 03/26/2002 from the PTO.

Applicant received a notice of publication of the application dated 06/20/2002.

Applicant was notified about possible abandonment via phone in the last week of December, 2002, followed by the receipt of the Notice Of Abandonment dated 12/31/2002, which was received by Applicant 01/06/2003.


Until being notified of the abandonment of the application for failure to respond, Applicant was unaware an office action had been sent some time between 04/01/2002 and the date of abandonment (12/31/2002). As a result, the failure to reply was definitely unintentional. In order to respond to the abandonment, Applicant requested a copy of the missing office action which Applicant received on 01/07/2003. Upon receipt of the copy of the Office Action, Applicant is making best effort to fully and timely respond.

To summarize, Applicant has no record of receiving anything from the USPTO pursuant to the present application between the receipt of the Notice Of Publication and Notice Of Abandonment, and is responding in a timely a manner subsequent to learning of the missing office action. Applicant cannot determine if the Office Action was never received, or if the Office Action was lost or misplaced in the mailroom belonging to Applicant. Because Applicant cannot determine what happened to the Office Action dated 06/18/2002, Applicant is submitting this Petition to Revive under 37 CFR 1.137(b), Unintentional Failure To Reply, rather than filing a Petition To Withdraw Holding Of Abandonment, based on Failure To Receive Office Action. Pursuant to the requirements for a Petition To Revive, Applicant is

enclosing the present Petition To Revive under 37 CFR 1.1.37(b) Unintentional Failure To Reply, required fees for the present Petition, and a full response to the outstanding and previously missing (from Applicant's records) Office Action dated 06/18/2002. The full response to the Office Action includes both specific responses to the arguments made in the Office Action as well as an RCE.

For the reasons just discussed, Applicant respectfully petitions the Commissioner to revive the above-identified applicant due to an unintended failure to reply.

Respectfully,

 9-Jan-2003  
Russ F. Marsden      Dated  
Reg. 43,775